IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITIONL (L) NO. 2410 OF 2005

Mazgaon Godi Kamgar Sanghatana ... Petitioner

V/s

Mazgaon Dock Ltd. & anr. ... Respondents

Ms. Gayatri Singh for the petitioner.

Mr. R.S. Pai i/by S. Udeshi & Co. for the Resp.No.1.

CORAM: P. V. KAKADE, J.

DATED: 16TH NOV., 2005

P.C.:

1. Heard learned counsel for both parties. Perused the record.

2. This petition is aimed against the order passed by the Member, Industrial Court, Bombay, dated 1.9.2005 rejecting the application of the petitioner refusing to grant any interim relief.

3. The petitioner filed the Complaint (ULP) No. 413 of 2005 for non-observance of the code of discipline and branding it as a breach of the statutory provisions and equating it with the unfair labour practice under Item 9

of Schedule IV of the MRTU & PULP Act and the interim application was filed therein praying that so long as the respondent Company never verifies the membership of the union, the Company had no right to negotiate with the other unions and to enter into settelement and to refrain the intended act of negotiations and consequent signing of the settlement. This preventary relief was prayed for by the said interim application.

4. After having considered the facts and circumstances involved in the dispute and relevant law, I am of the view that when the lower Court has come to the conclusion that the complainant failed to prove the prima facie case and also the fact that balance of convenience was not in its favour, the petitioner was not entitled to the interim relief. I do not see any reason to interfere with the discretionary order which appears to be based on material on record. However, the learned counsel for the petitioner submitted that they would be unduly prejudiced if the matter is prolonged and interim reliefs are not granted. In view of this position, I am of the view that the best solution for the purpose would be to expedite the hearing of the complaint itself by the Industrial Court, Bombay with certain directions.

5. Hence, taking into account all the relevant aspects, it is hereby directed that the Member, Industrial Court, Bombay, shall take up the complaint (ULP) No. 413 of 2005, after giving opportunity to the respondents to file their written statement, for final adjudication within a period of six weeks from the date of receipt of writ of this Court and pending the hearing of the complaint, service conditions of the members of the complainant union shall not be changed.

With these directions, the writ petition stands disposed of with no order as to costs.

C. c. expedited.

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